

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HARRY LEE BOGGS, JR.,

Plaintiff,

v.

WILLIAM A. GITTERE, *et al.*,

Defendants.

Case No. 3:21-cv-00186-MMD-WGC

ORDER

Plaintiff Harry Lee Boggs, Jr. brings this civil rights action under 42 U.S.C. § 1983, claiming that his Eighth, Fourteenth, and First Amendment rights were violated when he was placed in a high-security prison following a disciplinary proceeding. (ECF No. 1-1.) On October 27, 2021, this Court ordered Boggs to update his address by November 26, 2021. (ECF No. 14.) That deadline has expired without an updated address from Boggs, and his mail from this Court is being returned as undeliverable. (ECF No. 15).

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to Defendants; (4) the public policy favoring disposition of cases on their

1 merits; and (5) the availability of less drastic alternatives. *In re Phenylpropanolamine*
2 *Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

3 The first two factors, the public's interest in expeditiously resolving this litigation
4 and the Court's interest in managing its docket, weigh in favor of dismissal of Boggs's
5 claims. The third factor, risk of prejudice to Defendants, also weighs in favor of dismissal
6 because a presumption of injury arises from the occurrence of unreasonable delay in filing
7 a pleading ordered by the Court or prosecuting an action. See *Anderson v. Air West*, 542
8 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
9 cases on their merits—is greatly outweighed by the factors favoring dismissal.

10 The fifth factor requires the Court to consider whether less drastic alternatives can
11 be used to correct the party's failure that brought about the Court's need to consider
12 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
13 that considering less drastic alternatives *before* the party has disobeyed a court order
14 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 n.4 (9th Cir.
15 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that “implicitly
16 accepted pursuit of last drastic alternatives prior to disobedience of the court's order as
17 satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled with the
18 warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*). Courts “need
19 not exhaust every sanction short of dismissal before finally dismissing a case, but must
20 explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779 F.2d 1421,
21 1424 (9th Cir. 1986).

22 Because this action cannot realistically proceed without the ability for the Court
23 and Defendants to send Boggs case-related documents, filings, and orders, the only
24 alternative is to enter a second order setting another deadline. But without an updated
25 address, the likelihood that the second order would even reach Boggs is low, so issuing
26 a second order will only delay the inevitable and further squander the Court's finite
27 resources. Setting another deadline is not a meaningful alternative given these
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1 circumstances. The fifth factor therefore favors dismissal. Having thoroughly considered
2 these dismissal factors, the Court finds that they weigh in favor of dismissal.

3 It is therefore ordered that this action is dismissed without prejudice based on
4 Boggs's failure to file an updated address in compliance with the Court's October 27,
5 2021, order. (ECF No. 14.)

6 It is further ordered that Boggs's motions for various relief (ECF Nos. 5, 6, 7, 12)
7 are denied as moot.

8 The Clerk of Court is directed to enter judgment accordingly and close this case.
9 No other documents may be filed in this now-closed case. If Boggs wishes to pursue his
10 claims, he must file a complaint in a *new* case and provide the Court with his current
11 address.

12 DATED THIS 14th Day of January 2022.

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MIRANDA M. DU
16 CHIEF UNITED STATES DISTRICT JUDGE
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